



The Gujarat Government Gazette

EXTRAORDINARY
PUBLISHED BY AUTHORITY

Vol. LXVI]

TUESDAY, FEBRUARY 18, 2025 / MAGHA 29, 1946

Separate paging is given to this part in order that it may be filed as a Separate Compilation.

PART V

Bills introduced in the Gujarat Legislative Assembly

(To be translated into Gujarati and the translation to be published in the *Gujarat Government Gazette*. The date of publication to be reported.)

The following Bill is published with the consent of the Speaker given under the proviso to rule 127A of the Gujarat Legislative Assembly Rules:-

THE GUJARAT GOODS AND SERVICES TAX (AMENDMENT) BILL, 2025.

GUJARAT BILL NO. 5 OF 2025.

A BILL

further to amend the Gujarat Goods and Services Tax Act, 2017.

It is hereby enacted in the Seventy-sixth Year of the Republic of India as follows: -

- 1.** (1) This Act may be called the Gujarat Goods and Services Tax (Amendment) Act, 2025.

2. Sections 6, 30, 35 and 37 shall be deemed to have come into force on the 27th September, 2024 and the remaining provisions shall be deemed to have come into force on the 1st November, 2024.
- Guj. 25 of 2017.** 2. In the Gujarat Goods and Services Tax Act, 2017 (hereinafter referred to as “the principal Act”), in section 9, in sub-section (1), after the words “alcoholic liquor for human consumption”, the words “and un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor, for human consumption” shall be inserted.

Short title and commencement.

Amendment of section 9 of Guj. 25 of 2017.

Amendment of section 10 of Guj. 25 of 2017.

3. In the principal Act, in section 10, in sub-section (5), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Insertion of new section 11A to Guj. 25 of 2017.

4. In the principal Act, after section 11, the following section shall be inserted, namely:—

Power not to recover Goods and Services Tax not levied or short-levied as a result of general practice.

“**11A.** Notwithstanding anything contained in this Act, if the Government is satisfied that—

- (a) a practice was, or is, generally prevalent regarding levy of state tax (including non-levy thereof) on any supply of goods or services or both; and
- (b) such supplies were, or are, liable to,—
 - (i) state tax, in cases where according to the said practice, state tax was not, or is not being, levied, or
 - (ii) a higher amount of state tax than what was, or is being, levied, in accordance with the said practice,

the Government may, on the recommendation of the Council, by notification in the *Official Gazette*, direct that the whole of the state tax payable on such supplies, or, as the case may be, the state tax in excess of that payable on such supplies, but for the said practice, shall not be required to be paid in respect of the supplies on which the state tax was not, or is not being levied, or was, or is being, short-levied, in accordance with the said practice.”.

Amendment of section 13 of Guj. 25 of 2017.

5. In the principal Act, in section 13, in sub-section (3),—

- (i) in clause (b), for the words “by the supplier:”, the words “by the supplier, in cases where invoice is required to be issued by the supplier; or” shall be substituted;
- (ii) after clause (b), the following clause shall be inserted, namely:—

“(c) the date of issue of invoice by the recipient, in cases where invoice is to be issued by the recipient:”;
- (iii) in the first proviso, after the words, brackets and letter “or clause (b)”, the words, brackets and letter “or clause (c)” shall be inserted.

Amendment of section 16 of Guj. 25 of 2017.

6. In the principal Act, in section 16, after sub-section (4), the following sub-sections shall be inserted and shall be deemed always to have been inserted with effect from the 1st day of July, 2017, namely:—

“(5) Notwithstanding anything contained in sub-section (4), in respect of an invoice or debit note for supply of goods or services or both pertaining to the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed up to the thirtieth day of November, 2021.

(6) Where registration of a registered person is cancelled under section 29 and subsequently the cancellation of registration is revoked by any order, either under section 30 or pursuant to any order made by the Appellate Authority or the Appellate Tribunal or court and where availment of input tax credit in respect of an invoice or debit note was not restricted under sub-section (4) on the date of order of cancellation of registration, the said person shall be entitled to take the input tax credit in respect of such invoice or debit note for supply of goods or services or both, in a return under section 39,—

- (i) filed up to thirtieth day of November following the financial year to which such invoice or debit note pertains or furnishing of the relevant annual return, whichever is earlier; or

- (ii) for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, where such return is filed within thirty days from the date of order of revocation of cancellation of registration, whichever is later.”.
- 7.** In the principal Act, in section 17, in sub-section (5), in clause (i), for the words and figures “sections 74, 129 and 130”, the words and figures “section 74 in respect of any period up to Financial Year 2023-24” shall be substituted. Amendment of section 17 of Guj. 25 of 2017.
- 8.** In the principal Act, in section 21, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted. Amendment of section 21 of Guj. 25 of 2017.
- 9.** In the principal Act, in section 30, in sub-section (2), after the proviso, the following proviso shall be added, namely:—
“Provided further that such revocation of cancellation of registration shall be subject to such conditions and restrictions, as may be prescribed.”. Amendment of section 30 of Guj. 25 of 2017.
- 10.** In the principal Act, in section 31,—
(a) in sub-section (3), in clause (f), after the words and figure “of section 9 shall”, the words “, within the period as may be prescribed,” shall be inserted;
(b) after clause (g), the following Explanation shall be inserted, namely:—
“Explanation.— For the purposes of clause (f), the expression “supplier who is not registered” shall include the supplier who is registered solely for the purpose of deduction of tax under section 51.”. Amendment of section 31 of Guj. 25 of 2017.
- 11.** In the principal Act, in section 35, in sub-section (6), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted. Amendment of section 35 of Guj. 25 of 2017.
- 12.** In the principal Act, in section 39, for sub-section (3), the following sub-section shall be substituted, namely:—
“(3) Every registered person required to deduct tax at source under section 51 shall electronically furnish a return for every calendar month of the deductions made during the month in such form and manner and within such time as may be prescribed:
Provided that the said registered person shall furnish a return for every calendar month whether or not any deductions have been made during the said month.”. Amendment of section 39 of Guj. 25 of 2017.
- 13.** In the principal Act, in section 49, in sub-section (8), in clause (c), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be added. Amendment of section 49 of Guj. 25 of 2017.
- 14.** In the principal Act, in section 50, in the proviso of sub-section (1), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted. Amendment of section 50 of Guj. 25 of 2017.
- 15.** In the principal Act, in section 51, in sub-section (7), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be added. Amendment of section 51 of Guj. 25 of 2017.
- 16.** In the principal Act, in section 54,—
(a) in sub-section (3), the second proviso shall be deleted;
(b) after sub-section (14), the following sub-section shall be inserted, namely:— Amendment of section 54 of Guj. 25 of 2017.

“(15) Notwithstanding anything contained in this section, no refund of unutilised input tax credit on account of zero rated supply of goods or of integrated tax paid on account of zero rated supply of goods shall be allowed where such zero rated supply of goods is subjected to export duty.”.

**Amendment of
section 61 of
Guj. 25 of 2017.**

17. In the principal Act, in section 61, in sub-section (3), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be added.

**Amendment of
section 62 of
Guj. 25 of 2017.**

18. In the principal Act, in section 62, in sub-section (1), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

**Amendment of
section 63 of
Guj. 25 of 2017.**

19. In the principal Act, in section 63, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

**Amendment of
section 64 of
Guj. 25 of 2017.**

20. In the principal Act, in section 64, in sub-section (2), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be added.

**Amendment of
section 65 of
Guj. 25 of 2017.**

21. In the principal Act, in section 65, in sub-section (7), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be added.

**Amendment of
section 66 of
Guj. 25 of 2017.**

22. In the principal Act, in section 66, in sub-section (6), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be added.

**Amendment of
section 70 of
Guj. 25 of 2017.**

23. In the principal Act, in section 70, after sub-section (1), the following sub-section shall be inserted, namely:—

“(1A) All persons summoned under sub-section (1) shall be bound to attend, either in person or by an authorized representative, as such officer may direct, and the person so appearing shall state the truth during examination or make statements or produce such documents and other things as may be required.”.

**Amendment of
section 73 of
Guj. 25 of 2017.**

24. In the principal Act, in section 73,—

- (i) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period up to Financial Year 2023-24,” shall be inserted;
- (ii) after sub-section (11), the following sub-section shall be added, namely:—

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.”.

**Amendment of
section 74 of
Guj. 25 of 2017.**

25. In the principal Act, in section 74,—

- (i) in the marginal heading, after the words “Determination of tax”, the words and figures “, pertaining to the period up to Financial Year 2023-24,” shall be inserted;

- (ii) after sub-section (11) and before *Explanation 1*, the following sub-section shall be inserted, namely:—

“(12) The provisions of this section shall be applicable for determination of tax pertaining to the period up to Financial Year 2023-24.”;

- (iii) the *Explanation 2* shall be deleted.

26. In the principal Act, after section 74, the following section shall be inserted, namely: —

Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to Financial Year 2024-25 onward.

“74A. (1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised, he shall serve notice on the person chargeable with tax which has not been so paid or which has been so short paid or to whom the refund has erroneously been made, or who has wrongly availed or utilised input tax credit, requiring him to show cause as to why he should not pay the amount specified in the notice along with interest payable thereon under section 50 and a penalty leviable under the provisions of this Act or the rules made thereunder:

Provided that no notice shall be issued, if the tax which has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised in a financial year is less than one thousand rupees.

- (2) The proper officer shall issue the notice under sub-section (1) within forty-two months from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or input tax credit wrongly availed or utilised relates to or within forty-two months from the date of erroneous refund.
- (3) Where a notice has been issued for any period under sub-section (1), the proper officer may serve a statement, containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods other than those covered under sub-section (1), on the person chargeable with tax.
- (4) The service of such statement shall be deemed to be service of notice on such person under sub-section (1), subject to the condition that the grounds relied upon for such tax periods other than those covered under sub-section (1) are the same as are mentioned in the earlier notice.
- (5) The penalty in case where any tax which has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised,—
 - (i) for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, shall be equivalent to ten per cent. of tax due from such person or ten thousand rupees, whichever is higher;
 - (ii) for the reason of fraud or any wilful-misstatement or suppression of facts to evade tax shall be equivalent to the tax due from such person.
- (6) The proper officer shall, after considering the representation, if any, made by the person chargeable with tax, determine the amount of tax, interest and penalty due from such person and issue an order.
- (7) The proper officer shall issue the order under sub-section (6) within twelve months from the date of issuance of notice specified in sub-section (2):

Provided that where the proper officer is not able to issue the order within the specified period, the Commissioner, or an officer authorised by the Commissioner senior in rank to the proper officer but not below the rank of Joint Commissioner of State Tax, may, having regard to the reasons for delay in issuance of the order under sub-section (6), to be recorded in writing, before the expiry of the specified period, extend the said period further by a maximum of six months.

- (8) The person chargeable with tax where any tax has not been paid or short paid or erroneously refunded, or where input tax credit has been wrongly availed or utilised for any reason, other than the reason of fraud or any wilful-misstatement or suppression of facts to evade tax, may,—

Insertion of new section 74A to Guj. 25 of 2017.

- (i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information shall not serve any notice under sub-section (1) or the statement under sub-section (3), as the case may be, in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;
 - (ii) pay the said tax along with interest payable under section 50 within sixty days of issue of show cause notice, and on doing so, no penalty shall be payable and all proceedings in respect of the said notice shall be deemed to be concluded.
- (9) The person chargeable with tax, where any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilised by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax, may,—
- (i) before service of notice under sub-section (1), pay the amount of tax along with interest payable under section 50 and a penalty equivalent to fifteen per cent. of such tax on the basis of his own ascertainment of such tax or the tax as ascertained by the proper officer and inform the proper officer in writing of such payment, and the proper officer, on receipt of such information, shall not serve any notice under sub-section (1), in respect of the tax so paid or any penalty payable under the provisions of this Act or the rules made thereunder;
 - (ii) pay the said tax along with interest payable under section 50 and a penalty equivalent to twenty-five per cent. of such tax within sixty days of issue of the notice, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded;
 - (iii) pay the tax along with interest payable thereon under section 50 and a penalty equivalent to fifty per cent. of such tax within sixty days of communication of the order, and on doing so, all proceedings in respect of the said notice shall be deemed to be concluded.
- (10) Where the proper officer is of the opinion that the amount paid under clause (i) of sub-section (8) or clause (i) of sub-section (9) falls short of the amount actually payable, he shall proceed to issue the notice as provided for in sub-section (1) in respect of such amount which falls short of the amount actually payable.
- (11) Notwithstanding anything contained in clause (i) or clause (ii) of sub-section (8), penalty under clause (i) of sub-section (5) shall be payable where any amount of self-assessed tax or any amount collected as tax has not been paid within a period of thirty days from the due date of payment of such tax.
- (12) The provisions of this section shall be applicable for determination of tax pertaining to the Financial Year 2024-25 onwards.

Explanation 1.—For the purposes of this section,—

- (i) the expression “all proceedings in respect of the said notice” shall not include proceedings under section 132;
- (ii) where the notice under the same proceedings is issued to the main person liable to pay tax and some other persons, and such proceedings against the main person have been concluded under this section, the proceedings against all the persons liable to pay penalty under sections 122 and 125 are deemed to be concluded.

Explanation 2.—For the purposes of this Act, the expression “suppression” shall mean non-declaration of facts or information which a taxable person is required to declare in the return, statement, report or any other document furnished under this Act or the rules made thereunder, or failure to furnish any information on being asked for, in writing, by the proper officer.”.

27. In the principal Act, in section 75,—

- (a) in sub-section (1), after the word and figures “section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of section 74A” shall be inserted;
- (b) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) Where any Appellate Authority or Appellate Tribunal or court concludes that the penalty under clause (ii) of sub-section (5) of section 74A is not sustainable for the reason that the charges of fraud or any wilful-misstatement or suppression of facts to evade tax has not been established against the person to whom the notice was issued, the penalty shall be payable by such person, under clause (i) of sub-section (5) of section 74A.”;

- (c) for sub-section (10), the following sub-section shall be substituted, namely:—

“(10) The adjudication proceedings shall be deemed to be concluded, if the order is not issued within the period specified in sub-section (10) of section 73 or in sub-section (10) of section 74 or in sub-section (7) of section 74A.”;

- (d) in sub-section (11), after the word and figures “section 74”, the words, brackets, figures and letter “or sub-section (7) of section 74A” shall be inserted;
- (e) in sub-section (12), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted;
- (f) in sub-section (13), after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

28. In the principal Act, in section 104, in sub-section (1), in the Explanation, after the word and figures “section 74”, the words, brackets, figures and letter “or sub-sections (2) and (7) of section 74A” shall be added.

Amendment of section 104 of Guj. 25 of 2017.

29. In the principal Act, in section 107,—

- (a) in sub-section (6), in clause (b), for the word “twenty-five”, the word “twenty” shall be substituted;
- (b) in sub-section (11), in the second proviso, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be added.

Amendment of section 107 of Guj. 25 of 2017.

30. In the principal Act, in section 109, after the words “Revisional Authority”, the words “, or for conducting an examination or adjudicating the cases referred to in sub-section (2) of section 171, if so notified under the said section” shall be inserted.

Amendment of section 109 of Guj. 25 of 2017.

31. In the principal Act, in section 112,—

- (a) in sub-section (1), after the words “from the date on which the order sought to be appealed against is communicated to the person preferring the appeal”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for filing appeal before the Appellate Tribunal under this Act, whichever is later.” shall be added and shall be deemed always to have been added with effect from the 1st day of August, 2024;
- (b) in sub-section (3), after the words “from the date on which the said order has been passed”, the words “; or the date, as may be notified by the Government, on the recommendations of the Council, for the purpose of filing application before the Appellate Tribunal under this Act, whichever is later,” shall be inserted and shall be deemed always to have been inserted with effect from the 1st day of August, 2024;

Amendment of section 112 of Guj. 25 of 2017.

Amendment of section 75 of Guj. 25 of 2017.

- (c) in sub-section (6), after the words, brackets and figure “after the expiry of the period referred to in sub-section (1)”, the words, brackets and figure “or permit the filing of an application within three months after the expiry of the period referred to in sub-section (3)” shall be inserted;
- (d) in sub-section (8), in clause (b),—
 - (i) for the words “twenty per cent.”, the words “ten per cent.” shall be substituted;
 - (ii) for the words “fifty crore rupees”, the words “twenty crore rupees” shall be substituted.

Amendment of section 122 of Guj. 25 of 2017.

- 32.** In the principal Act, in section 122, in sub-section (1B), for the words “Any electronic commerce operator who”, the words and figures “Any electronic commerce operator, who is liable to collect tax at source under section 52,” shall be substituted and shall be deemed always to have been substituted with effect from the 1st day of October, 2023.

Amendment of section 127 of Guj. 25 of 2017.

- 33.** In the principal Act, in section 127, after the words and figures “section 73 or section 74”, the words, figures and letter “or section 74A” shall be inserted.

Insertion of section 128A to Guj. 25 of 2017.

- 34.** In the principal Act, after section 128, the following section shall be inserted, namely:—

Waiver of interest or penalty or both relating to demands raised under section 73, for certain tax periods. “128A. (1) Notwithstanding anything to the contrary contained in this Act, where any amount of tax is payable by a person chargeable with tax in accordance with,—

- (a) a notice issued under sub-section (1) of section 73 or a statement issued under sub-section (3) of section 73, and where no order under sub-section (9) of section 73 has been issued; or
- (b) an order passed under sub-section (9) of section 73, and where no order under sub-section (11) of section 107 or sub-section (1) of section 108 has been passed; or
- (c) an order passed under sub-section (11) of section 107 or sub-section (1) of section 108, and where no order under sub-section (1) of section 113 has been passed, pertaining to the period from 1st July, 2017 to 31st March, 2020, or a part thereof, and the said person pays the full amount of tax payable as per the notice or statement or the order referred to in clause (a), clause (b) or clause (c), as the case may be, on or before the date, as may be notified by the Government on the recommendations of the Council, no interest under section 50 and penalty under this Act, shall be payable and all the proceedings in respect of the said notice or order or statement, as the case may be, shall be deemed to be concluded, subject to such conditions as may be prescribed:

Provided that where a notice has been issued under sub-section (1) of section 74, and an order is passed or required to be passed by the proper officer in pursuance of the direction of the Appellate Authority or Appellate Tribunal or a court in accordance with the provisions of sub-section (2) of section 75, the said notice or order shall be considered to be a notice or order, as the case may be, referred to in clause (a) or clause (b) of this sub-section:

Provided further that the conclusion of the proceedings under this sub-section, in cases where an application is filed under sub-section (3) of section 107 or under sub-section (3) of section 112 or an appeal is filed by an officer of state tax under sub-section (1) of section 117 or under sub-section (1) of section 118 or where any proceedings are initiated under sub-section (1) of section 108, against an order referred to in clause (b) or clause (c) or against the directions of the Appellate Authority or the Appellate Tribunal or the court referred to in the first proviso, shall be subject to the condition that the said person pays the additional amount of tax payable, if any, in accordance with the order of the Appellate Authority or the Appellate Tribunal or the court or the Revisional Authority, as the case may be, within three months from the date of the said order:

Provided also that where such interest and penalty has already been paid, no refund of the same shall be available.

- (2) Nothing contained in sub-section (1) shall be applicable in respect of any amount payable by the person on account of erroneous refund.
 - (3) Nothing contained in sub-section (1) shall be applicable in respect of cases where an appeal or writ petition filed by the said person is pending before Appellate Authority or Appellate Tribunal or a court, as the case may be, and has not been withdrawn by the said person on or before the date notified under sub-section (1).
 - (4) Notwithstanding anything contained in this Act, where any amount specified under sub-section (1) has been paid and the proceedings are deemed to be concluded under the said sub-section, no appeal under sub-section (1) of section 107 or sub-section (1) of section 112 shall lie against an order referred to in clause (b) or clause (c) of sub-section (1), as the case may be.”.
- 35.** In the principal Act, in section 171,

- (a) in sub-section (2), the following proviso and Explanation shall be inserted, namely:—

“Provided that the Central Government may by notification, on the recommendations of the Council, specify the date from which the said Authority shall not accept any request for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.

Explanation.—For the purposes of this sub-section, “request for examination” shall mean the written application filed by an applicant requesting for examination as to whether input tax credits availed by any registered person or the reduction in the tax rate have actually resulted in a commensurate reduction in the price of the goods or services or both supplied by him.”;

- (b) the Explanation shall be renumbered as Explanation 1 thereof, and after Explanation 1 as so renumbered, the following Explanation shall be added, namely:—

“*Explanation 2.*—For the purposes of this section, the expression “Authority” shall include the ‘Appellate Tribunal’.”.

- 36.** In the principal Act, in Schedule III, after paragraph 8 and before Explanation 1, the following paragraphs shall be inserted, namely:—

**Amendment of
section 171 of
Guj. 25 of 2017.**

**Amendment of
Schedule III of
Guj. 25 of 2017.**

“9. Activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in co-insurance agreements, subject to the condition that the lead insurer pays the central tax, the State tax, the Union territory tax and the integrated tax on the entire amount of premium paid by the insured.

10. Services by insurer to the reinsurer for which ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, subject to the condition that the central tax, the State tax, the Union territory tax and the integrated tax is paid by the reinsurer on the gross reinsurance premium payable by the insurer to the reinsurer, inclusive of the said ceding commission or the reinsurance commission.”.

No refund of tax paid or input tax credit reversed.

37. No refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed, had section 6 been in force at all material times.

Repeal and Saving.

38. (1) The Gujarat Goods and Services Tax (Amendment) Ordinance, 2024 is hereby repealed.

Guj. Ord. 3 of 2024.

(2) Notwithstanding such repeal, anything done or any action taken under the principal Act as amended by the said Ordinance, shall be deemed to have been done or taken under the principal Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

The Gujarat Goods and Services Tax Act, 2017 was enacted with a view to making a provision for levy and collection of tax on intra-State supply of goods or services or both by the Government of Gujarat.

Various decisions have been taken by the Goods and Services Tax Council in its 53rd meeting requiring amendments in the Goods and Services Tax Laws. Accordingly, the Central Goods and Services Tax Act, 2017 (12 of 2017), the Integrated Goods and Services Tax Act, 2017 (13 of 2017), and the Goods and Services Tax (Compensation to States) act, 2017 (15 of 2017) have been amended by the Parliament by the Finance (No. 2) Act, 2024 (15 of 2024). With a view to implementing the recommendations of the Goods and Services Tax Council as soon as possible and in order to maintain the uniformity in applicability of the provisions of the Central Goods and Services Tax Act, 2017 and the Gujarat Goods and Services Tax Act, 2017 (Guj. 25 of 2017), it is considered necessary to amend the Gujarat Goods and Services Tax Act, 2017.

As the Legislative Assembly of the State of Gujarat is not in session, the Gujarat Goods and Services Tax (Amendment) Ordinance, 2024 was promulgated to achieve the aforesaid objects. Therefore, the Bill seeks to replace the said Ordinance by an Act of the State Legislature.

The following notes on clauses explain, in brief, the important provisions of this Bill:-

- Clause 1.-** This clause provides for the Short title and Commencement.
- Clause 2.-** This clause seeks to amend sub-section (1) of section 9 of the Gujarat Goods and Services Tax Act, so as to not to levy state tax on un-denatured extra neutral alcohol or rectified spirit used for manufacture of alcoholic liquor for human consumption.
- Clause 3.-** This clause seeks to make consequential amendments in sub-section (5) of section 10 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.
- Clause 4.-** This clause seeks to insert a new section 11A in the Gujarat Goods and Services Tax Act, so as to empower the Government to regularise non-levy or short levy of state tax where it is satisfied that such non-levy or short levy was a result of general practice.
- Clause 5.-** This clause seeks to amend sub-section (3) of section 13 of the Gujarat Goods and Services Tax Act, so as to specify the time of supply of services in cases where the invoice is required to be issued by the recipient of services in reverse charge supplies.
- Clause 6.-** This clause seeks to insert a new sub-section (5) in section 16 of the Gujarat Goods and Services Tax Act, so as to carve out an exception to the existing sub-section (4) and to provide that in respect of an invoice or debit note for the Financial Years 2017-18, 2018-19, 2019-20 and 2020-21, the registered person shall be entitled to take input tax credit in any return under section 39 which is filed upto the thirtieth day of November, 2021.

It also proposes to insert a new sub-section (6) in the said section so as to allow the availment of input tax credit in respect of an invoice or debit note in a return filed for the period from the date of cancellation of registration or the effective date of cancellation of registration, as the case may be, till the date of order of revocation of cancellation of registration, filed within thirty days of the date of order of revocation of cancellation of registration, subject to the condition that the time-limit for availment of credit in respect of the said invoice or debit note should not have already expired under sub-section (4) of the said section on the date of order of cancellation of registration.

The aforesaid amendments are proposed to be made effective from the 1st day of July, 2017.

Further it is proposed that where the tax has been paid or the input tax credit has been reversed, no refund of the same shall be admissible.

Clause 7.- This clause seeks to amend sub-section (5) of section 17 of the Gujarat Goods and Services Tax Act, so as to restrict the non availability of input tax credit in respect of tax paid under section 74 of the said Act only for demands upto Financial Year 2023-24.

It also proposes to remove reference to sections 129 and 130 in the said sub-section.

Clause 8.- This clause seeks to make consequential amendment in section 21 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.

Clause 9.- This clause seeks to insert a new proviso in sub-section (2) of section 30 of the Gujarat Goods and Services Tax Act, so as to empower the Gujarat Government to prescribe conditions and restrictions for revocation of cancellation of registration by rules.

Clause 10.- This clause seeks to amend clause (f) of sub-section (3) of section 31 of the Gujarat Goods and Services Tax Act, so as to empower the State Government to prescribe the time period for issuance of invoice by the recipient in case of reverse charge mechanism supplies by rules.

It also proposes to insert an Explanation in sub-section (3) of the said section so as to specify that a supplier registered solely for the purposes of tax deduction at source under section 51 of the said Act shall not be considered as a registered person for the purpose of clause (f) of sub-section (3) of section 31 of the said Act.

Clause 11.- This clause seeks to make consequential amendment in sub-section (6) of section 35 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.

Clause 12.- This clause seeks to substitute sub-section (3) of section 39 of the Gujarat Goods and Services Tax Act, so as to mandate the electronic furnishing of return for each month by the registered person required to deduct tax at source, irrespective of whether any deduction has been made in the said month or not.

It also empowers the Government to prescribe by rules, the form, manner and the time within which such return shall be filed.

Clause 13.- This clause seeks to make consequential amendments in sub-section (8) of section 49 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.

Clause 14.- This clause seeks to make consequential amendments in sub-section (1) of section 50 in the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.

Clause 15.- This clause seeks to make consequential amendments in sub-section (7) of section 51 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.

Clause 16.- This clause seeks to insert a new sub-section (15) in section 54 of the Gujarat Goods and Services Tax Act, so as to omit the second proviso to sub-section (3) and to provide that no refund of unutilised input tax credit or of integrated tax shall be allowed in cases of zero rated supply of goods where such goods are subjected to export duty.

- Clause 17.-** This clause seeks to make consequential amendments in sub-section (3) of section 61 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.
- Clause 18.-** This clause seeks to make consequential amendments in sub-section (1) of section 62 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.
- Clause 19.-** This clause seeks to make consequential amendments in section 63 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.
- Clause 20.-** This clause seeks to make consequential amendments in sub-section (2) of section 64 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.
- Clause 21.-** This clause seeks to make consequential amendments in sub-section (7) of section 65 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.
- Clause 22.-** This clause seeks to make consequential amendments in sub-section (6) of section 66 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.
- Clause 23.-** This clause seeks to insert a new sub-section (1A) in section 70 of the Gujarat Goods and Services Tax Act, so as to enable an authorised representative to appear on behalf of the summoned person before the proper officer in compliance of summons issued by the said officer.
- Clause 24.-** This clause seeks to insert a new sub-section (12) in section 73 of the Gujarat Goods and Services Tax Act, so as to restrict the applicability of the said section for determination of tax pertaining to the period upto Financial Year 2023-24.
It also proposes to amend the marginal heading of the said section accordingly.
- Clause 25.-** This clause seeks to insert a new sub-section (12) in section 74 of the Gujarat Goods and Services Tax Act, so as to restrict the applicability of the said section for determination of tax pertaining to the period upto Financial Year 2023-24.
It also proposes to amend the marginal heading of the said section accordingly.
- Clause 26.-** This clause seeks to insert a new section 74A in the Gujarat Goods and Services Tax Act, so as to provide for determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason pertaining to the Financial Year 2024-25 onwards.
It also provides for the same limitation period for issuing demand notices and orders in respect of demands from the Financial Year 2024-25 onwards, irrespective of whether the charges of fraud, wilful misstatement, or suppression of facts are invoked or not, while keeping a higher penalty, for cases involving fraud, wilful misstatement, or suppression of facts.
- Clause 27.-** This clause seeks to insert a new sub-section (2A) in section 75 of the Gujarat Goods and Services Tax Act, so as to provide for redetermination of penalty demanded in a notice invoking penal provisions under clause (ii) of sub-section (5) of the proposed section 74A of the said Act to re-determine the penalty as per clause (i) of the subsection (5) of the said section, in cases where the charges of fraud, wilful misstatement, or suppression of facts are not established.
It also seeks to make consequential amendments in section 75 of the said Act, so as to incorporate a reference to the proposed section 74A or the relevant sub-sections thereof.

Clause 28.- This clause seeks to make consequential amendments in sub-section (1) of section 104 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to sub-sections (2) and (7) of the proposed new section 74A.

Clause 29.- This clause seeks to amend sub-section (6) of section 107 of the Gujarat Goods and Services Tax Act, so as to reduce the maximum amount of pre-deposit for filing appeal before the Appellate Authority from rupees twenty-five crores to rupees twenty crores in state tax.

It also proposes to make consequential amendments in sub-section (11) of the said section to incorporate a reference to the proposed new section 74A.

Clause 30.- This clause seeks to amend section 109 of the Gujarat Goods and Services Tax Act, so as to empower the Appellate Tribunal to examine the matters or adjudicate the cases referred to in sub-section (2) of section 171, if so notified under the said section. Such matters are proposed to be examined or adjudicated only by the Principal Bench.

It also empowers the Government to notify types of cases that shall be heard only by the Principal Bench of the Appellate Tribunal.

Clause 31.- This clause seeks to amend sub-sections (1) and (3) of section 112 of the Gujarat Goods and Services Tax Act, so as to empower the Government to notify the date for filing appeal before the Appellate Tribunal and provide a revised time limit for filing appeals or application before the Appellate Tribunal.

It is proposed to make the said amendments effective from the 1st day August, 2024.

It also seeks to amend sub-section (6) of the said section so as to enable the Appellate Tribunal to admit appeals filed by the department within three months after the expiry of the specified time limit of six months.

Further, it seeks to amend sub-section (8) of the said section to reduce the maximum amount of pre-deposit for filing appeals before the Appellate Tribunal from the existing twenty percent to ten percent of the tax in dispute and also reduce the maximum amount payable as pre-deposit from rupees fifty crores to rupees twenty crores in state tax.

Clause 32.- This clause seeks to amend sub-section (1B) of section 122 of the Gujarat Goods and Services Tax Act, so as to restrict the applicability of the said sub-section to electronic commerce operators, who are required to collect tax at source under section 52 of the said Act.

The said amendment is proposed to be made effective from the 1st day of October, 2023 when the said sub-section had come into force.

Clause 33.- This clause seeks to make consequential amendments in section 127 of the Gujarat Goods and Services Tax Act, so as to incorporate a reference to the proposed new section 74A.

Clause 34.- This clause seeks to insert a new section 128A in the Gujarat Goods and Services Tax Act, so as to provide for conditional waiver of interest and penalty in respect of demand notices issued under section 73 of the said Act for the Financial Years 2017-18, 2018-19 and 2019-20, except the demand notices in respect of erroneous refund.

Further, it is proposed that in cases where interest and penalty have already been paid in respect of any demand for the said financial years, no refund shall be admissible for the same.

Clause 35.- This clause seeks to amend sub-section (2) of section 171 of the Gujarat Goods and Services Tax Act, so as to empower the Central Government to notify the date from which the Authority under the said section shall not accept any application for anti-profiteering cases.

An *Explanation* is also proposed to be inserted so as to include the reference of “Appellate Tribunal” in the expression “Authority” under the said section to enable the Government to notify the Appellate Tribunal to act as an Authority to handle antiprofiteering cases.

Clause 36.- This clause seeks to amend Schedule III to the Gujarat Goods and Services Tax Act, so as to provide that the activity of apportionment of co-insurance premium by the lead insurer to the co-insurer for the insurance services jointly supplied by the lead insurer and the co-insurer to the insured in coinsurance agreements shall be treated as neither supply of goods nor supply of services, provided that the lead insurer pays the tax liability on the entire amount of premium paid by the insured.

It also proposes to provide that the services by the insurer to the re-insurer, for which the ceding commission or the reinsurance commission is deducted from reinsurance premium paid by the insurer to the reinsurer, shall be treated as neither supply of goods nor supply of services, provided that tax liability on the gross reinsurance premium inclusive of reinsurance commission or the ceding commission is paid by the reinsurer.

Clause 37.- This clause seeks to provide that no refund shall be made of all the tax paid or the input tax credit reversed, which would not have been so paid, or not reversed had the said section 6 been in force at all material times.

Clause 38.- This clause seeks to provide for repeal of Gujarat Ordinance No. 3 of 2024 and saving thereof.

KANUBHAI DESAI,

MEMORANDUM REGARDING DELEGATED LEGISLATION

This Bill involves the delegation of legislative powers in the following respects: -

- Clause 9.-** This clause empowers the State Government to prescribe by rules, the conditions and restrictions for revocation of cancellation of registration of a taxpayer.
- Clause 10.-** This clause empowers the State Government to prescribed by rules, the time period for issuance of invoice by the recipient in case of reverse charge mechanism supplies.
- Clause 12.-** This clause empowers the State Government to prescribe by rules, the form and the manner in which, and the time within which return is to be filed by registered person required to deduct tax at source under section 51 of the said Act.
- Clause 31.-** (i) Sub-clause (a) of this clause empowers the State Government to notify the date, on recommendations of the Council, for filing appeal before the Appellate Tribunal;
(ii) sub-clause (b) of this clause empowers the State Government to notify the date, on recommendations of the Council, for filing application before the Appellate Tribunal.
- Clause 34.-** This clause empowers the State Government to prescribed by rules, the conditions subject to which the proceedings with regard to demand notices issued under section 73 of the said Act shall be deemed to be concluded as per provisions of sub-section (1) of the proposed section 128A of the said Act.

The matters in respect of which rules may be made or notifications or order may be issued in accordance with the provisions of the Bill are the matters of procedure and administrative facet, and as such, it is not mentioned in the Memorandum of Delegated Legislation.

The delegation of legislative powers, as aforesaid, is necessary and is of normal character.

Dated 18th February, 2025.

KANUBHAI DESAI.

By order and in the name of the Governor of Gujarat,

K. M. LALA,

Gandhinagar,

Dated the 18th February, 2025.

Secretary to the Government of Gujarat,

Legislative and Parliamentary Affairs Department.

